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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,547	02/12/2004	Robert Anders	1867.002US1	5750
21186	7590	04/25/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402-0938			RAO, G NAGESH	
			ART UNIT	PAPER NUMBER

1722

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/777,547	ANDERS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	G. Nagesh Rao	1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                                     |

*re*

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-31 rejected under 35 U.S.C. 102(b) as being anticipated by Bertram (US Patent No. 5,899,325).

Please note materials used within the device are interpreted as a recitation of intended use and bear no weight to the structural limitations of the device.

Bertram 325 discloses an invention related to foam in bag packaging system and method for producing the same. As taught in claim 1 of Bertram 325 there as depicted a foam-in-bag cushion (30) which reads on foam containment unit, a foam precursor packet (40) that reads on foam precursor storage unit with a first compartment (50) filled with a first foam precursor component (52) and a second compartment (51) filled with a second foam precursor component (53) (Col. 3 Lines 1-5 and Col. 4 Lines 13-19).

Furthermore the language in the specification Col. 7 Lines 29-37, suggest the use of some sort of heating unit to initiate a reaction between the materials enclosed in the foam precursor storage unit. It can be interpreted that the location

of the heating unit could either be located in the interior or exterior foam-in-bag cushion device. It is also known that traditional heating units would traditionally consist of a heating coil, battery pack energy source, and a switch for activation. Furthermore the materials incorporated in the use of this device is merely viewed as a recitation of intended use, as in the case of incorporating a supercooled liquid for cooling the processed foam material.

A delivery mechanism system is taught in the specification for transferring the material from the first and second foam precursor compartments. The delivery mechanism is capable of delivering the material to whichever source is desired by the user (Col. 10 Lines 19-40).

As incorporated by reference in Bertram 325 the following prior art Sperry (US Patent No. 5,699,902) indicated in Col. 5 Line 12, describes a mixing means for mixing the materials from the first and second foam precursor components (Col. 8 Lines 55-65 and also see claim 20) which anticipates the use of a mixing chamber and furthermore is read on as a type of physical agitation device.

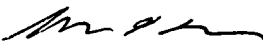
It is also known in the prior art as taught by Sperry 902 that injection devices are used in these foam precursor units (Col. 1 Lines 29-42) which is interpreted in the art as a type of syringe.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to G. Nagesh Rao whose telephone number is (571) 272-2946. The examiner can normally be reached on 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Utech can be reached on (571) 272-1137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GNR

  
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